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§10–708.

(a) (1) In this section the following words have the meanings indicated.

(2) "Lay advisor" means an individual at a facility, who is knowledgeable about mental health practice and who assists individuals with rights complaints.

(3) "Medication" means psychiatric medication prescribed for the treatment of a mental disorder.

(4) "Panel" means a clinical review panel that determines, under the provisions of this section, whether to approve that medication be administered to an individual who objects to the medication.

(b) Medication may not be administered to an individual who refuses the medication, except:

(1) In an emergency, on the order of a physician where the individual presents a danger to the life or safety of the individual or others; or

(2) In a nonemergency, when the individual is hospitalized involuntarily or committed for treatment by order of a court and the medication is approved by a panel under the provisions of this section.

(c) (1) A panel shall consist of the following individuals appointed by the chief executive officer of the facility or the chief executive officer's designee, one of whom shall be appointed chairperson:

(i) The clinical director of the psychiatric unit, if the clinical director is a physician, or a physician designated by the clinical director;

(ii) A psychiatrist; and

(iii) A mental health professional, other than a physician.

(2) If a member of the clinical review panel also is directly responsible for implementing the individualized treatment plan for the individual under review, the chief executive officer of the facility or the chief executive officer's designee shall designate another panel member for that specific review.

(d) (1) The chief executive officer of the facility or the chief executive officer's designee shall give the individual and the lay advisor written notice at least 24 hours prior to convening a panel.

(2) Except in an emergency under subsection (b)(1) of this section, medication or medications being refused may not be administered to an individual prior to the decision of the panel.

(e) (1) The notice under subsection (d)(1) of this section shall include the following information:

(i) The date, time, and location that the panel will convene;

(ii) The purpose of the panel; and

(iii) A complete description of the rights of an individual under paragraph (2) of this subsection.

(2) At a panel, an individual has the following rights:

(i) To attend the meeting of the panel, excluding the discussion conducted to arrive at a decision;

(ii) To present information, including witnesses;

(iii) To ask questions of any person presenting information to the panel;

(iv) To request assistance from a lay advisor; and

(v) To be informed of:

1. The name, address, and telephone number of the lay advisor;

2. The individual's diagnosis; and

3. An explanation of the clinical need for the medication or medications, including potential side effects, and material risks and benefits of taking or refusing the medication.

(3) The chairperson of the panel may:

(i) Postpone or continue the panel for good cause, for a reasonable time; and

(ii) Take appropriate measures necessary to conduct the panel in an orderly manner.

(f) Prior to determining whether to approve the administration of medication, the panel shall:

(1) Review the individual's clinical record, as appropriate;

(2) Assist the individual and the treating physician to arrive at a mutually agreeable treatment plan; and

(3) Meet for the purpose of receiving information and clinically assessing the individual's need for medication by:

(i) Consulting with the individual regarding the reason or reasons for refusing the medication or medications and the individual's willingness to accept alternative treatment, including other medication;

(ii) Consulting with facility personnel who are responsible for initiating and implementing the individual's treatment plan, including discussion of the current treatment plan and alternative modes of treatment, including medications that were considered;

(iii) Receiving information presented by the individual and other persons participating in the panel;

(iv) Providing the individual with an opportunity to ask questions of anyone presenting information to the panel; and

(v) Reviewing the potential consequences of requiring the administration of medication and of withholding the medication from the individual.

(g) The panel may approve the administration of medication or medications and may recommend and approve alternative medications if the panel determines that:

(1) The medication is prescribed by a psychiatrist for the purpose of treating the individual's mental disorder;

(2) The administration of medication represents a reasonable exercise of professional judgment; and

(3) Without the medication, the individual is at substantial risk of continued hospitalization because of:

(i) Remaining seriously mentally ill with no significant relief of the mental illness symptoms that:

1. Cause the individual to be a danger to the individual or others while in the hospital;

2. Resulted in the individual being committed to a hospital under this title or Title 3 of the Criminal Procedure Article; or

3. Would cause the individual to be a danger to the individual or others if released from the hospital;

(ii) Remaining seriously mentally ill for a significantly longer period of time with the mental illness symptoms that:

1. Cause the individual to be a danger to the individual or to others while in the hospital;

2. Resulted in the individual being committed to a hospital under this title or Title 3 of the Criminal Procedure Article; or

3. Would cause the individual to be a danger to the individual or others if released from the hospital; or

(iii) Relapsing into a condition in which the individual is unable to provide for the individual's essential human needs of health or safety.

(h) (1) A panel shall base its decision on its clinical assessment of the information contained in the individual's record and information presented to the panel.

(2) A panel may meet privately to reach a decision.

(3) A panel may not approve the administration of medication where alternative treatments are available and are acceptable to both the individual and the facility personnel who are directly responsible for implementing the individual's treatment plan.

(i) (1) A panel shall document its consideration of the issues and the basis for its decision on the administration of medication or medications.

(2) A panel shall provide a written decision on the administration of medication or medications, and the decision shall be provided to the individual, the lay advisor, and the individual's treatment team for inclusion in the individual's medical record.

(3) If a panel approves the administration of medication, the decision shall specify:

(i) The medication or medications approved and the dosage and frequency range;

(ii) The duration of the approval, not to exceed the maximum time provided under subsection (n) of this section; and

(iii) The reason that alternative treatments, including the medication, if any, were rejected by the panel.

(4) If a panel approves the administration of medication, the decision shall contain:

(i) Notice of the right to request a hearing under subsection (l) of this section;

(ii) The right to request representation or assistance of a lawyer or other advocate of the individual's choice; and

(iii) The name, address, and telephone number of the designated State protection and advocacy agency and the Lawyer Referral Service.

(j) A panel shall convene within 9 days after an individual's refusal of medication for a period of at least 72 hours if:

(1) The individual was committed to a hospital under Title 3 of the Criminal Procedure Article because of a mental disorder; and

(2) The treatment plan developed under § 10–706 of this subtitle indicates that there is a substantial likelihood that, without immediate treatment, the individual will remain a danger to self or the person or property of another.

(k) If a panel approves the administration of medication, the lay advisor promptly shall:

(1) Inform the individual of the individual's right to appeal the decision under subsection (l) of this section;

(2) Ensure that the individual has access to a telephone as provided under § 10–702(b) of this subtitle;

(3) If the individual requests a hearing, notify the chief executive officer of the facility or the chief executive officer's designee pursuant to subsection (l)(1) of this section and give the individual written notice of the date, time, and location of the hearing; and

(4) Advise the individual of the provision for renewal of an approval under subsection (n) of this section.

(l) (1) An individual may request an administrative hearing to appeal the panel's decision by filing a request for hearing with the chief executive officer of the facility or the chief executive officer's designee within 48 hours of receipt of the decision of the panel.

(2) Within 24 hours of receipt of a request for hearing, the chief executive officer of the facility or the chief executive officer's designee shall forward the request to the Office of Administrative Hearings.

(3) An initial panel decision authorizing the administration of medication shall be stayed for 48 hours. If a request for hearing is filed, the stay shall remain in effect until the issuance of the administrative decision.

(4) The Office of Administrative Hearings shall conduct a hearing and issue a decision within 7 calendar days of the decision by the panel.

(5) The administrative hearing may be postponed by agreement of the parties or for good cause shown.

(6) The administrative law judge shall conduct a de novo hearing to determine if the standards and procedures in this section are met.

(7) At the hearing, the individual representing the facility:

(i) May introduce the decision of the panel as evidence; and

(ii) Shall prove, by a preponderance of the evidence, that the standards and procedures of this section have been met.

(8) The administrative law judge shall state on the record the findings of fact and conclusions of law.

(9) The determination of the administrative law judge is a final decision for the purpose of judicial review of a final decision under the Administrative Procedure Act.

(m) (1) Within 14 calendar days from the decision of the administrative law judge, the individual or the facility may appeal the decision and the appeal shall be to the circuit court on the record from the hearing conducted by the Office of Administrative Hearings.

(2) The scope of review shall be as a contested case under the Administrative Procedure Act.

(3) (i) Review shall be on the audiophonic tape without the necessity of transcription of the tape, unless either party to the appeal requests transcription of the tape.

(ii) A request for transcription of the tape shall be made at the time the appeal is filed.

(iii) The Office of Administrative Hearings shall prepare the transcription prior to the appeal hearing, and the party requesting the transcription shall bear the cost of transcription.

(4) The circuit court shall hear and issue a decision on an appeal within 7 calendar days from the date the appeal was filed.

(n) (1) Treatment pursuant to this section may not be approved for longer than 90 days.

(2) (i) Prior to expiration of an approval period and if the individual continues to refuse medication, a panel may be convened to decide whether renewal is warranted.

(ii) Notwithstanding the provisions of paragraph (1) of this subsection, if a clinical review panel approves the renewal of the administration of medication or medications, the administration of medication or medications need not be interrupted if the individual appeals the renewal of approval.

(o) When medication is ordered pursuant to the approval of a panel under this section and at a minimum of every 15 days, the treating physician shall document any known benefits and side effects to the individual.

(p) (1) The Administration shall develop and conduct training on the requirements of this section to ensure compliance at all State facilities.

(2) The training is mandatory for all clinical directors and all individuals who are eligible to serve on a panel.

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